

Louisiana's system of parole is set out in *R.S 15:574.2 et seq.* Topics of interest to the public, numbered (1) through (25), and corresponding statutory references, current through the 2007 Regular Legislative Session, are set forth below. (*Please see: Louisiana Laws at the Louisiana Legislature's website for the full text of both the laws cited herein below and laws cited elsewhere on this website; See also: Bosworth v. Whitley*, 627 So.2d 629 (La. 11/29/93), rehearing denied, (La. 1/27/94), for a complete discussion of the Louisiana system of parole within a factual context).

(1) Definition of Parole

R.S. 15:574.11 A. Parole is an administrative device for the rehabilitation of prisoners under supervised freedom from actual restraint, and the granting, conditions, or revocation of parole rest in the discretion of the Board of Parole. No prisoner or parolee shall have a right of appeal from a decision of the board regarding release or deferment of release on parole, the imposition or modification of authorized conditions of parole, the termination or restoration of parole supervision or discharge from parole before the end of the parole period, or the revocation or reconsideration of revocation of parole, except for the denial of a revocation hearing under R.S. 15:574.9.

(2) Establishment of the Board of Parole

R.S. 15: 574.2.A. (1). A board of parole, hereinafter referred to as "the board", is hereby created in the Department of Public Safety and Corrections. It shall consist of seven members appointed by the governor, one of whom shall be the chairman of the board, and all of whom shall serve at the pleasure of the governor. One of the seven members shall be appointed from a list of at least three names submitted by Victims and Citizens Against Crime, Inc. Each appointment by the governor shall be submitted to the Senate for confirmation.

(3) Duties of the Department of Public Safety and Corrections in relation to the Board of Parole

R.S. 15: 574.3.

A. The Department of Public Safety and Corrections shall provide the necessary clerical and administrative personnel, equipment, office space, and facilities for the board of parole and its members.

B. The Department of Public Safety and Corrections shall see that every offender is interviewed and explained the rules with respect to release on parole. It shall secure all relevant data and shall assist the offender in formulating a parole plan. Whenever the board orders a parole hearing to be held, the Department of Public Safety and Corrections shall secure a report with respect to the personality of the offender, his social history, his adjustment to authority, and his prison record, and may include any recommendation with reference to the release of the offender on parole.

D. The department shall compile statistical data to document successful program completions and program failures by offenders assigned to the intensive incarceration and intensive parole supervision program. The department shall utilize the statistical data to evaluate the operation of the program, define policies, and formulate eligibility standards. The secretary of the department shall establish regulations for the administration of the intensive incarceration and intensive parole supervision program.

E. The department shall prepare and submit an annual report to the legislature and to the governor, which shall include the following:

- (1) An overall assessment of the intensive incarceration and intensive parole supervision program.
- (2) An evaluation of the extent to which program goals and objectives are being met.
- (3) A statement regarding the fiscal impact of the program.

(4) Prohibitions Governing Representation of Applicants before the Board

R.S. 15: 574.2.E.

(1). The following persons shall not represent any applicant directly or indirectly, before the board:

(a) The executive counsel to the governor.

(b) The executive secretary to the governor.

(c) Any member of the immediate staff of the governor.

(d) Any member of a law firm, law partnership, or law corporation of which a member, associate, or partner is the executive counsel to the governor, the executive secretary to the governor, or a member of the immediate staff of the governor.

(2) If an executive counsel, executive secretary, or member of the immediate staff of the governor violates the provisions of this Subsection, such person shall forfeit the office or position held and all emoluments of the office or position. In addition, if a member of a law firm, partnership, or corporation of which such a person is a member, associate, or partner violates the provisions of this Subsection, the office or position held with the governor and all emoluments of said office or position shall be forfeited.

(5) Prohibited Contact with the Board of Parole; Penalties; Public Record

R.S. 15: 574.2.1.

A. Notwithstanding the provisions of R.S. 15:574.12, or any other provision of law to the contrary, no person shall contact or communicate with the Board of Parole or any of its members urging parole, or otherwise regarding any inmate except in the following ways:

(1) In an open hearing as provided in this Part.

(2) By written letter addressed to the Board of Parole.

B. Any communication with the Board of Parole regarding an inmate as provided in Paragraph A(2) of this Section shall be deemed a public record and subject to public inspection as provided by the provisions of R.S. 44:1 et seq.

C. Any member of the Board of Parole improperly contacted by an individual shall immediately notify the individual in writing accompanied by a copy of this Section of law that such contact is illegal and inappropriate, cease the inappropriate communication with the individual, and report the contact to the other board members.

D. Any person who violates the provisions of this Section after being informed of the inappropriate contact as provided in Subsection C of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

E. This Section does not apply to any letter written by, or on behalf of, any victim of a crime committed by the inmate eligible for parole, or any letter written in opposition to the inmate's being placed on parole. The exception provided by this Subsection shall not apply to any elected or appointed public official.

F. The Board of Parole shall adopt rules and regulations to provide for uniform notification procedures pursuant to Subsection C of this Section, and a method of documenting which persons have received such notification.

(6) Powers and Duties of the Board

R.S. 15: 574.2.B.(2). The board shall meet in a minimum of three-member panels at the adult correctional institutions on regular scheduled dates, not less than every three months. Such dates are to be determined by the chairman. Three votes of a three-member panel shall be required to grant parole, or, if the number exceeds a three-member panel, a unanimous vote of those present shall be required to grant parole. Notwithstanding any other provision of law in this Section, no person convicted of a crime of violence against any peace officer as defined in R.S. 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the board are present and all members present vote to grant parole.

R.S. 15: 574.2.C. In accordance with the provisions of this Part, the Board of Parole shall have the following powers and duties:

- (1) To determine the time and conditions of release on parole of any person who has been convicted of a felony and sentenced to imprisonment, and confined in any penal or correctional institution in this state.
- (2) To determine and impose sanctions for violation of the conditions of parole.
- (3) To keep a record of its acts and to notify each institution of its decisions relating to the persons who are or have been confined therein.
- (4) To transmit annually, on or before the first day of February, a report to the secretary of public safety and corrections, for inclusion in his report to the governor, which report shall include statistical and other data with respect to the determinations and work of the board for the preceding calendar year, research studies which the board may make of sentencing, parole, or related functions, and may include a recommendation of legislation to further improve the parole system of this state.
- (5) To apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry; to take testimony under oath, either at a hearing or by deposition; and to pay all costs in connection with the board hearings.
- (6) To consider all pertinent information with respect to each prisoner who is incarcerated in any penal or correctional institution in this state at least one month prior to the parole eligible date and thereafter at such other intervals as it may determine, which information shall be a part of the inmate's consolidated summary record and which shall include:
 - (a) The circumstances of his offense.
 - (b) The reports filed under Articles 875 and 876 of the Louisiana Code of Criminal Procedure.
 - (c) His previous social history and criminal record.
 - (d) His conduct, employment, and attitude in prison.
 - (e) His participation in vocational training, adult education, literacy, or reading programs.
 - (f) Any reports of physical and mental examinations which have been made.
- (7) To adopt such rules not inconsistent with law as it deems necessary and proper, with respect to the eligibility of prisoners for parole, and to the conditions imposed on persons released on parole.

(8) When requested, to notify the chief of police, where such exists, and the sheriff and district attorney of the parish where the individual resides and the conviction occurred. The notification shall be in writing and shall be issued at least seven days prior to the release of any parolees residing within the jurisdiction of the agency.

(9) To notify the victim, or the spouse or next of kin of a deceased victim, when the offender is scheduled for a parole hearing. The notification shall be in writing and sent no less than thirty days prior to the hearing date. The notice shall advise the victim, or the spouse or next of kin of a deceased victim, of their rights with regard to the hearing. The notice is not required when the victim, or the spouse or next of kin of a deceased victim, advises the board in writing that such notification is not desired. The victim, or the spouse or next of kin of a deceased victim, shall be allowed to testify at the hearing. The victim, or the spouse or next of kin of a deceased victim, shall be allowed to testify directly, or in rebuttal to testimony or evidence offered by or on behalf of the offender, or both.

(10) To adopt rules and regulations to encourage voluntary participation by inmates committed to the Department of Public Safety and Corrections in vocational training, adult education, literacy, and reading programs, through programs established by the department under R.S. 15:828(B). The rules and regulations may include provisions for accelerated parole release time, in addition to the provisions of R.S. 15:574.4(A)(1), for persons who are not otherwise ineligible in R.S. 15:574.4(B) and who are otherwise eligible, but no offender shall receive more than ten additional days per month or one hundred eighty days total accelerated parole release time for program participation.

(11) To sanction the applicant's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language or written communication in connection with the application before the board. A decision to sanction may result in the immediate and unfavorable termination of the proceedings and the applicant's right to make future application for parole may be suspended for not more than two years. The applicant shall be informed of the sanction of the board at the commencement of the proceedings.

(12) To adopt such rules as it deems necessary and proper with respect to the conduct of parole hearings for the purpose of excluding any person or persons in order to protect the privacy of the victim or victims during parole hearings.

(7) Parole; Eligibility

(Exclusive of R.S. 15: 574.4.A.(2), which pertains only to **IMPACT**. The **IMPACT** provisions are cited in section (11), following this section)

R.S. 15: 574.4.A(1)(3), and B set forth the standards and criteria the Louisiana Legislature has deemed applicable to an inmate's parole eligibility. The Department of Public Safety and Corrections, not the Board of Parole, administers these standards and criteria by applying them, as well as other relevant statutes and interpretative jurisprudence, to determine whether or not a particular inmate is parole eligible, i.e., eligible for parole consideration by the board.

If and when the Department of Public Safety and Corrections makes a determination that an inmate is parole eligible, it calculates the inmate's parole eligibility date (PED) and enters the inmate's parole eligibility date (PED) on his/her Master Record. Only then is the inmate in a proper posture to be given parole consideration by the Board of Parole.

Thereafter, and pursuant to its rule-making authority, the board applies other criteria, not inconsistent with the law, to further procedures related to parole consideration, the scheduling of parole hearings, and the physical release of an inmate to parole supervision. Please refer to the **Board of Parole Rules** at this website for more information on the board's implementation of these and other relevant statutes.

(8) Parole; Consideration and Hearings

R.S. 15: 574.4.C.(1) At such intervals as it determines, the board or a member thereof shall consider all pertinent information with respect to each prisoner eligible for parole, including the nature and circumstances of the prisoner's offense, his prison records, the presentence investigation report, any recommendations of the chief probation and parole officer, and any information and reports of data supplied by the staff. A parole hearing shall be held if, after such consideration, the board determines that a parole hearing is appropriate or if such hearing is requested in writing by its staff.

Special Rules Applicable Only to Sex Offenders

2)(a) In cases where the offender has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a violation of a sex offense as defined in R.S. 15:541(14.1) and parole is permitted by law and the offender is otherwise eligible, the board shall consider reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, as to all of the following:

(i) Whether the offender has successfully completed the sex offender program.

(ii) Whether, in the expert's opinion, there is a likelihood that the offender will or will not repeat the criminal conduct and that the offender will or will not be a danger to society.

(b) The board shall render its decision ordering or denying the release of the prisoner on parole only after considering this clinical evidence where such clinical evidence is available.

D. (1) The parole hearings shall be conducted in a formal manner in accordance with the rules formulated by the board and with the provisions of this Part. Before the parole of any prisoner is ordered, such prisoner shall appear before and be interviewed by the board, except those incarcerated in parish prisons or parish correctional centers, in which case one board member may conduct the interview. The board may order a reconsideration of the case or a rehearing at any time.

(2) The crime victim or the victim's family, a victim advocacy group, and the district attorney or his representatives, may appear before the Board of Parole by means of telephone communication from the office of the local district attorney.

(9) Parole; Decisions of the Board; Nature, Order, and Conditions

E. The board shall render its decision ordering or denying the release of the prisoner on parole within thirty days after the hearing. A parole shall be ordered only for the best interest of society, not as an award of clemency, and upon determination by the board that there is reasonable probability that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen so that he can be released without detriment to the community or to himself.

F. All paroles shall issue upon order of the board and each order of parole shall recite the conditions thereof; provided, however, that before any prisoner is released on parole he shall be provided with a certificate of parole that enumerates the conditions of parole. These conditions shall be explained to the prisoner and the prisoner shall agree in writing to such conditions.

G. The release date of the prisoner shall be fixed by the board, but such date shall not be later than six months after the parole hearing or the most recent reconsideration of the prisoner's case.

(10) Parole; Rules of Conduct

H. (1) The Board of Parole may make rules for the conduct of persons heretofore or hereafter granted parole. When a prisoner is released on parole, the board shall require as a condition of his parole that he refrain from engaging in criminal conduct.

Special Rules Applicable Only to Sex Offenders

(2) In cases where the offender has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a violation of a sex offense as defined in R.S. 15:541(14.1), including criminal sexual offenders under the supervision and legal authority of the Department of Public Safety and Corrections pursuant to the terms and conditions of the interstate compact agreement provided for in R.S. 15:574.14, and parole is permitted by law and the offender is otherwise eligible, and when the board releases an offender on parole, the board shall order the offender to register as a sex offender and provide notification in accordance with the provisions of R.S. 15:540 et seq.

(3) The board shall mail notice within three days after it makes a decision to release a sexual offender, as enumerated and pursuant to the circumstances in Paragraph (2) of this Subsection, on parole. The notice shall contain the address where the defendant will reside, a statement that the offender will be released on parole, and the date he will be released and shall be mailed to the victim or the victim's parent or guardian if the victim or a relative was not present at the parole hearing of the offender, and the notice shall be sent to their last known address by registered or certified letter, unless the victim or relative has signed a written waiver of notification.

(4) The board may also require, either at the time of his release on parole or at any time while he remains on parole, that he conform to any of the following conditions of parole which are appropriate to the circumstances of the particular case:

(a) Report immediately to the division of probation and parole office, Department of Public Safety and Corrections, which is listed on the face of the certificate of parole.

(b) Remain within the limits fixed by the certificate of parole. If he has good cause to leave these limits, he will obtain written permission from the parole officer and the approval of the division of probation and parole before doing so.

(c) Between the first and fifth days of each month, until his final release, and also on the final day of his parole, make a full and truthful written report upon the form provided for that purpose and that he will take or mail his report to his parole officer. He will report to the probation and parole officer when directed to do so.

(d) Avoid injurious or vicious habits and places of disreputable or harmful character.

(e) Will not associate with persons known to be engaged in criminal activities or with persons known to have been convicted of a felony, without written permission of his parole officer.

(f) In all respects conduct himself honorably, work diligently at a lawful occupation, and support his dependents, if any, to the best of his ability.

(g) Promptly and truthfully answer all inquiries directed to him by the probation and parole officer.

(h) Live and remain at liberty and refrain from engaging in any type of criminal conduct.

(i) Live and work at the places stated in his parole plan and not change residence or employment until after he has permission to do so from his parole officer.

(j) Shall not have in his possession or control any firearms or dangerous weapons.

(k) Submit himself to available medical, psychiatric, mental health, or substance abuse examination or treatment or both when deemed appropriate and ordered to do so by the probation and parole officer.

(l) Waive extradition to the state of Louisiana from any jurisdiction in or outside the United States where he may be found and also agree that he will not contest any effort by any jurisdiction to return him to the state of Louisiana.

(m) Will be subject to visits by his parole officer at his home or place of employment without prior notice.

(n) Such other specific conditions as are appropriate, stated directly and without ambiguity so as to be understandable to a reasonable man.

(o) Defray the cost, or any portion thereof, of his parole supervision by making payments to the Board of Parole in a sum and manner determined by the board, based upon his ability to pay.

(p) Perform at least one hundred hours of unpaid community service work during the period of parole supervision and, if unemployed, perform additional hours as instructed by his supervising officers.

(q) Devote himself to an approved reading program at his cost if he is unable to read the English language.

(r) Agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by the probation officer or the parole officer assigned to him, with or without a warrant of arrest or with or without a search warrant, when the probation officer or the parole officer has reasonable suspicion to believe that the person who is on parole is engaged in or has been engaged in criminal activity since his release on parole.

Special Rules Applicable only to child victims

(5) No offender, who is the parent, stepparent, or has legal custody and physical custody of the child who is the victim, shall be released on parole unless the victim has received psychological counseling prior to the offender's release if the offender is returning to the residence or community in which the child resides. Such psychological counseling shall include an attempt by the health care provider to ease the psychological impact upon the child of the notice required under Paragraph (2) of this Subsection, including assisting the child in coping with potential insensitive comments and actions by the child's neighbors and peers. The cost of such counseling shall be paid by the offender.

I. At the time these written conditions are given, the board shall notify the parolee that:

(1) If he is arrested while on parole, the board has the authority to place a detainer against him which will in effect prevent him from making bail pending any new charges against him; and

(2) Should his parole be revoked for any reason, good time earned prior to parole and good time that would have been earned if parole had not been granted will be forfeited, as required by R.S. 15:571.4.

Special Rules Applicable only to victim restitution

J. (1) When a victim of the crime for which parole is being considered has suffered a direct pecuniary loss other than damage to or loss of property, the parole board may impose as a condition of parole that restitutions to the victim be made. When such a condition is imposed, the board shall take into account the defendant's ability to pay and shall not revoke parole based upon this condition unless the parolee has willfully failed to comply. When the victim's loss consists of damage to or loss of property, the board shall impose as a condition of parole payment of restitution, either in a lump sum or in monthly installments based on the earning capacity and assets of the defendant. If the victim was paid for such property loss or damage with monies from the Crime Victims Reparations Fund, the board shall order the parolee to make such payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. This

condition of parole shall continue until such time as the restitution is paid or the parolee is discharged from parole in accordance with R.S. 15:574.6.

(2) Nothing herein shall affect a victim's civil remedy except that funds actually received shall be credited to any civil judgment arising out of the same offense.

Special Rules Applicable only to costs of court or of the prosecution or proceeding, or any fine imposed as part of the sentence

K. If the prisoner has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the board of parole shall require as a condition of parole the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the board and based upon the prisoner's ability to pay.

L. Repealed by Acts 1993, No. 678, §2, eff. June 21, 1993.

M. Before the Board of Parole places a person on parole, the board shall determine if he has a high school degree or its equivalent and, if he does not, the board shall condition parole upon the parolee's enrolling in and attending an adult education or reading program until he obtains a GED, or until he completes such educational programs required by the board, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the parolee. If the board finds that there are no adult education or reading programs in the parish in which the parolee is domiciled, the parolee is unable to afford such a program, or attendance would create an undue hardship on the parolee, the board may suspend this condition of parole. The provisions of this Subsection shall not apply to those parolees who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.

N. The collection of the supervision fee imposed pursuant to Paragraph (H)(15) of this Section shall be suspended upon the transfer of an offender to another state for parole supervision in that state, pursuant to the interstate compact for out of state parolee supervision as provided in R.S. 15:574.14.

Special Rules Applicable only to a parole hearing for sex offenders

O. (1) Before having a parole hearing for any offender who has been convicted of a violation of a sex offense as defined in R.S. 15:541(14.1), when the law permits parole consideration for that offense, and when according to law an offender convicted of one of those offenses is otherwise eligible for parole, the board shall give written notice of the date and time of the parole hearing at least three days prior to the hearing to the victim or the victim's parent or guardian, unless the victim, parent, or guardian has advised the board of parole in writing that such notification is not desired.

(2) The victim or the victim's parent or guardian who desires to do so shall be given a reasonable opportunity to attend the hearing and to be heard.

P. If a person who is otherwise eligible for intensive parole supervision pursuant to Paragraph (2) of Subsection A of this Section, has been convicted of one of the sexual offenses enumerated in Paragraph (2) of Subsection H and Paragraph (1) of Subsection O of this Section and the intensive parole supervision is applicable to any of those enumerated crimes, then Subsections H and O of this Section shall apply.

Q. If a person, who is otherwise eligible for diminution of sentence for good behavior pursuant to R.S. 15:571.3, has been convicted of one of the sexual offenses enumerated in Paragraph (2) of Subsections H and O of this Section and the diminution of sentence for good behavior is applicable to any of those enumerated crimes, then Paragraphs (2) and (3) of Subsection H of this Section shall apply.

Special Rules Mandating Infectious Disease Testing

R. (1) Before placing a person on parole, the Board of Parole shall require that person to submit to a test designed to determine whether he is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, and viral hepatitis.

(2) The procedure or test shall be performed by a qualified physician or other qualified person who shall notify the parolee of the test results.

(3) If the person tested under the provisions of this Subsection tests positive for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, and viral hepatitis, he shall be referred to the appropriate health care and support services. If the person tested positive, the granting of the parole shall be conditioned upon the person seeking advice and counseling from the appropriate health care and support services. Failure to seek or follow that advice shall result in the revocation of that person's parole.

(4) The costs associated with this testing shall be paid by the person tested.

(5) The provisions of this Subsection shall not apply to inmates released because of diminution of sentence under R.S. 15:571.3.

Special Rules Applicable only to a grant of parole to sex offenders

S. (1) In cases where parole is permitted by law and the offender is otherwise eligible, the Board of Parole shall not grant parole to any sex offender either by an order of the Board of Parole or office of adult services pursuant to R.S. 15:571.3 until the Department of Public Safety and Corrections, division of probation and parole, has assessed and approved the suitability of the residence plan of such offender. In approving the residence plan of the offender, the department shall consider the likelihood that the offender will be able to comply with all of the conditions of his parole.

(2) For purposes of this Subsection, "sex offender" shall mean any offender who has been convicted of, or where adjudication has been deferred or withheld for, the perpetration or attempted perpetration of a violation of a sex offense as defined in R.S. 15:541(14.1).

(11) R.S. 15: 574.4.A.(2): Provision Applicable only to **IMPACT**

(a) Notwithstanding the provisions of Paragraph (A)(1) of this Section, a person, otherwise eligible for parole, convicted of a nonviolent first felony offense and committed to the Department of Public Safety and Corrections, or of a nonviolent second felony offense and committed to the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration. In addition, any person convicted of a first or second offense for possession of amphetamine or methamphetamine or cocaine or oxycodone or methadone or of a first offense for distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense amphetamine or methamphetamine or cocaine or oxycodone or methadone, in violation of R.S. 40:967(B)(1) or R.S. 40:967(B)(4)(b) when the amount of amphetamine or methamphetamine or cocaine or oxycodone or methadone involved was twenty-eight grams or less, may be eligible to participate in the intensive incarceration program. Notwithstanding the provisions of R.S. 40:967(B)(4)(b), a person otherwise eligible for participation in the intensive incarceration program may be eligible for intensive parole supervision upon successful completion of intensive incarceration. The intensive incarceration and intensive parole supervision program shall be established and administered by the department. The offender may be considered for participation in the program if all of the following conditions are met:

(i) The offender is sentenced to be committed to the Department of Public Safety and Corrections to serve ten years or less.

(ii) The department, through the division of probation and parole within the office of adult services, recommends to the sentencing court that the offender is particularly likely to respond affirmatively to participation in the program.

(iii) The court at sentencing recommends that the offender be considered for participation in the program.

(iv) The secretary of the department, or his designee, finds, after an evaluation, that the offender is particularly likely to respond affirmatively to participation in the program.

(v) The offender voluntarily enrolls in the program after having been advised by the department of the rules and regulations governing participation in the program.

(b) Notwithstanding the provisions of Paragraph (A)(1) of this Section, an offender who is otherwise eligible for intensive incarceration and intensive parole supervision, but who has not been recommended for participation in the intensive incarceration and intensive parole supervision program by the division of probation and parole of the office of adult services and the sentencing judge, as provided for in Paragraphs (A)(2)(a)(ii) and (iii) of this Section, may additionally be placed in the intensive incarceration and intensive parole supervision program if all of the following conditions are met:

(i) The staff at the adult reception and diagnostic center, after a thorough evaluation, determines that the offender is suitable and appropriate for participation.

(ii) The warden at the adult reception and diagnostic center concurs with the staff recommendation.

(iii) The warden of the facility where the offender would be placed concurs with the recommendation of the staff and warden of the adult reception and diagnostic center.

(iv) The offender meets other conditions of participation as set forth in Paragraphs (A)(2)(a)(i), (iv), and (v) of this Section.

(c)(i) Notwithstanding the provisions of Paragraph (A)(1) of this Section, a person, otherwise eligible for parole, convicted of a first felony offense and committed to the Department of Public Safety and Corrections, or of a second felony offense and committed to the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration. The intensive incarceration and intensive parole supervision program shall be established and administered by the department.

(ii) The court may sentence an offender directly to the program if the court commits the offender to the Department of Public Safety and Corrections to serve seven years or less.

(d) For purposes of this Section, a "first offender" shall not have been convicted previously of another felony as provided in R.S. 15:572(C) and shall not have been granted an automatic pardon as provided in R.S. 15:572(B).

(e) The duration of intensive incarceration shall not be less than one hundred eighty calendar days.

(f) The participating offender shall be evaluated by the program staff on a continual basis throughout the entire period of intensive incarceration. The evaluation shall include the offender's performance while incarcerated, the likelihood of successful adjustment on parole, and other factors deemed relevant by the Board of Parole or the program staff. The evaluation shall provide the basis for the recommendations by the department to the Board of Parole upon the offender's completion of intensive incarceration. Violation of any institutional or program rules or regulations may subject the participant to removal from the program by the department.

(g)(i) If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court, and based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of the Code of Criminal Procedure Article 881.1 or return the offender to a prison to serve the remainder of his sentence as provided by law.

(ii) If an offender enters the intensive incarceration program and is subsequently removed for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court and, based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of Code of Criminal Procedure Article 881.1 or return the offender to a prison to serve the remainder of his sentence as provided by law. If an offender enters the intensive incarceration program and is removed for violating any institutional or program rules or regulations, the offender shall be assigned to the general population to serve the remainder of his sentence as provided by law.

(h) When an offender completes intensive incarceration, the Board of Parole shall review the case of the offender and recommend either that the offender be released on intensive parole supervision or that the offender serve the remainder of his sentence as provided by law. When the offender is released to intensive parole supervision by the board, the board shall require the offender to comply with the following conditions of intensive parole supervision in addition to any other conditions of parole ordered by the board:

(i) Be subject to multiple monthly visits with his supervising officers without prior notice.

(ii) Abide by any curfew set by his supervising officers.

(iii) Perform at least one hundred hours of unpaid community service work during the period of intensive parole supervision and, if unemployed, perform additional hours as instructed by his supervising officers.

(iv) Refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at his own expense, to screening, evaluation, and treatment for controlled dangerous substance or alcohol abuse as directed by his supervising officers.

(v) Pay any costs as ordered by the sentencing court or Board of Parole.

(i) In cases in which the Board of Parole determines that there is victim opposition to parole, that the offender has a questionable disciplinary record, or that other extraordinary circumstances exist, the board may conduct a hearing to consider intensive parole supervision for the offender having successfully completed intensive incarceration, which shall be public and conducted in the same manner as parole hearings as otherwise provided in this Part. Otherwise the decision shall be made upon the approval or disapproval of a majority of the members of the board without necessity of a hearing, after a review of all available information on the offender, including the pre-parole report prepared by the department.

(12) R.S. 15: 574.20. Provision Applicable only to Medical Parole

A.(1) Notwithstanding the provisions of this Part or any other law to the contrary, any person sentenced to the custody of the Department of Public Safety and Corrections may, upon referral by the department, be considered for medical parole by the Board of Parole. Medical parole consideration shall be in addition to any other parole for which an inmate may be eligible, but shall not be available to any inmate who is awaiting execution or who has a contagious disease.

(2) Medical parole shall not be available to any inmate serving time for the violation of R.S. 14:30, first degree murder; or R.S. 14:30.1, second degree murder.

B. The Board of Parole shall establish the medical parole program to be administered by the Department of Public Safety and Corrections. An inmate eligible for consideration for release under the program shall be

any person who, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(1) "Permanently incapacitated inmate" which shall mean any person who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society; or

(2) "Terminally ill inmate" which shall mean any person who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

C. The authority to grant medical parole shall rest solely with the Board of Parole, and the board shall establish additional conditions of the parole in accordance with the provisions of this Subpart. The Department of Public Safety and Corrections shall identify those inmates who may be eligible for medical parole based upon available medical information. In considering an inmate for medical parole, the board may require that additional medical evidence be produced or that additional medical examinations be conducted.

D. The parole term of an inmate released on medical parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the parolee shall consist of periodic medical evaluations at intervals to be determined by the board at the time of release.

E. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole under the provisions of this Subpart, the board may order that the person be returned to the custody of the Department of Public Safety and Corrections to await a hearing to determine whether his parole shall be revoked. Any person whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole. If the person's medical parole is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be considered for parole under the provisions of R.S. 15:574.4. Medical parole may also be revoked for violation of any condition of the parole as established by the Board of Parole.

F. The Board of Parole shall promulgate such rules as are necessary to effectuate this Subpart, including rules relative to the conduct of medical parole hearings, and the conditions of medical parole release.

(13) R.S. 15: 571.5. Supervision upon release after diminution of sentence for good behavior

A.(1) When a prisoner committed to the Department of Public Safety and Corrections is released because of diminution of sentence pursuant to this Part, he shall be released as if released on parole.

(2) At least three months prior to the anticipated release due to diminution of sentence, the secretary of the department shall notify the parole board and provide such information as is necessary to allow the board to establish such conditions as provided in R.S. 15:574.4(H) as may be reasonably necessary to facilitate supervision. If diminution of sentence is not prohibited by R.S. 15:571.3(C)(1) and the sentence is for a sexual offense as enumerated in R.S. 15:574.4(H)(2), then the provisions of R.S. 15:574.4(H)(2)(a) and (b) and (3) apply.

B.(1) Before any prisoner is released on parole upon diminution of sentence, he shall be issued a certificate of parole that enumerates the conditions of parole. These conditions shall be explained to the prisoner and the prisoner shall agree in writing to such conditions prior to his release on parole.

(2) The person released because of diminution of sentence pursuant to this Part shall be supervised in the same manner and to the same extent as if he were released on parole. The supervision shall be for the remainder of the original full term of sentence. If a person released because of diminution of sentence pursuant to this Part violates a condition imposed by the parole board, the board shall proceed in the same

manner as it would to revoke parole to determine if the release upon diminution of sentence should be revoked.

C. If such person's parole is revoked by the parole board for violation of the terms of parole, the person shall be recommitted to the department for the remainder of the original full term.

(14) R.S. 15: 574.6. Parole term; automatic discharge: The parole term, when the board orders a prisoner released on parole, shall be for the remainder of the prisoner's sentence, without any diminution of sentence for good behavior. When the parolee has completed his full parole term, he shall be discharged from parole by the Department of Public Safety and Corrections without order by the board, provided that:

(1) No warrant has been issued by the board for the arrest of the parolee.

(2) No detainer has been issued by the parole officer for the detention of the parolee pending revocation proceedings.

(3) No indictment or bill of information is pending for any felony the parolee is suspected to have committed while on parole.

(15) R.S. 15: 574.7. Custody and Supervision of Parolees; Modification or Suspension of Supervision

A. Each parolee shall remain in the legal custody of the Department of Public Safety and Corrections, office of corrections services, and shall be subject to the orders and supervision of the board. At the direction of the board, the chief probation and parole officer shall be responsible for the investigation and supervision of all parolees. The board may modify or suspend such supervision upon a determination that a parolee who had conducted himself in accordance with the conditions of his parole no longer needs the guidance and supervision originally imposed.

(16) R.S. 15: 574.7. Violation of Conditions of Parole; Sanctions; Alternative Conditions

B.(1) If the chief probation and parole officer, upon recommendation by a parole officer, has reasonable cause to believe that a parolee has violated the conditions of parole, he shall notify the board, and shall cause the appropriate parole officer to submit the parolee's record to the board. After consideration of the record submitted, and after such further investigation as it may deem necessary, the board may order:

(a) The issuance of a reprimand and warning to the parolee.

(b) That the parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with R.S. 15:574.4.

(c) That the parolee be arrested, and upon arrest be given a pre-revocation hearing within a reasonable time, at or reasonably near the place of the alleged parole violation or arrest, to determine whether there is probable cause to detain the parolee pending orders of the parole board.

(2) Upon receiving a summary of the pre-revocation proceeding, the board may order the following:

(a) The parolee's return to the physical custody of the Department of Public Safety and Corrections, office of corrections services, to await a hearing to determine whether his parole should be revoked.

(b) As an alternative to revocation, that the parolee, as a condition of parole, be committed to a community rehabilitation center or a substance abuse treatment program operated by, or under contract with, the department, for a period of time not to exceed six months, without benefit of good time, provided that such commitment does not extend the period of parole beyond the full parole term. Upon written request of the department that the offender be removed for violations of the rules or regulations of the community

rehabilitation center or substance abuse program, the board shall order that the parole be revoked, with credit for time served in the community rehabilitation center.

(17) R.S. 15: 574.9. Revocation of Parole for Violation of Condition; Board Panels; Return to Custody Hearing

A. When a parolee has been returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, the board shall hold a hearing to determine whether his parole should be revoked, unless said hearing is expressly waived in writing by the parolee. A waiver shall constitute an admission of the findings of the pre-revocation proceeding and result in immediate revocation. If the revocation hearing is not waived, the parolee shall be permitted to consult with and be advised and represented by his own legal counsel or legal counsel appointed under the provisions of R.S. 15:149. At the hearing the parolee may admit, deny, or explain the violation charged, and he may present proof, including affidavits and other evidence, in support of his contentions. Upon request of the parolee, the parole board may postpone the rendering of its decision for a specified reasonable time pending receipt of further information necessary to a final determination.

B. The board may order revocation of parole upon a determination that:

- (1) The parolee has failed, without a satisfactory excuse, to comply with a condition of his parole; and
- (2) The violation of condition involves the commission of another felony, or misconduct including a substantial risk that the parolee will commit another felony, or misconduct indicating that the parolee is unwilling to comply with proper conditions of parole.

C. Other than for conviction of a felony committed while on parole, action revoking a parolee's parole and recommitting him for violation of the condition of parole must be initiated before the expiration of his parole term. When a warrant for arrest is issued by the Board of Parole or a detainer is issued by the parole officer, the running of the period of parole shall cease as of the time the warrant or detainer is issued. A parolee under supervision in this state or another state, who has absented himself from the supervising jurisdiction, or from his place of residence, without proof of permission for such absence, shall be deemed a fugitive from justice and shall be returned to the physical custody of the Department of Public Safety and Corrections for a revocation hearing by the Board of Parole, without necessity of a pre-revocation or probable cause hearing, at or near the place of the arrest or violation. No credit shall be applied toward completing the full parole term for the period of time the parolee was a fugitive from justice.

D. Parole revocation shall require two votes of a three-member panel of parole board members or, if the number of members present exceeds a three-member panel, a majority vote of those members present and voting, and the order of revocation shall be reduced to writing and preserved.

(18) R.S. 15: 574.9. Duration of Re-imprisonment and Re-parole after Revocation; Credit for Time Served

E. When the parole of a parolee has been revoked by the board for the violation of the conditions of parole, the parolee shall be returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, and serve the remainder of his sentence as of the date of his release on parole, subject to consideration by the board of any commutation of the sentence, and any diminution of sentence earned for good behavior while in the institution. The parolee shall be given credit for time served prior to the revocation hearing whether such time is served in a local detention facility, state institution, or out-of-state institution. The parolee shall not receive credit for such time served prior to the revocation hearing where the revocation is based on the subsequent conviction of a crime, in which case the parolee will receive credit for time served for the subsequent conviction pursuant to Code of Criminal Procedure Article 880.

F. Any such prisoner whose parole has been revoked may be considered by the board for rep parole in accordance with the provisions of this Part.

(19) R.S. 15: 574.9. Revocation for a Technical Violation

G.(1) Any offender who has been released on parole for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex offense as defined in R.S. 15:541(14.1), and whose parole supervision is being revoked under the provisions of this Subsection for his first technical violation of the conditions of parole as determined by the Board of Parole, shall be required to serve not more than ninety days without diminution of sentence or credit for time served prior to the revocation for a technical violation. The term of the revocation for the technical violation shall begin on the date the Board of Parole orders the revocation. Upon completion of the imposed technical revocation sentence, the offender shall return to active parole supervision for the remainder of the original term of supervision. The provisions of this Subsection shall apply only to an offender's first revocation for a technical violation.

(2) A "technical violation", as used in this Subsection, means any violation except it shall not include any of the following:

(a) Being arrested, charged, or convicted of any of the following:

(i) A felony.

(ii) A violation of any provision of Title 40 of the Louisiana Revised Statutes of 1950.

(iii) Any intentional misdemeanor directly affecting the person.

(iv) At the discretion of the Board of Parole, any attempt to commit any intentional misdemeanor directly affecting the person.

(v) At the discretion of the Board of Parole, any attempt to commit any other misdemeanor.

(b) Being in possession of a firearm or other prohibited weapon.

(c) Failing to appear at any court hearing.

(d) Absconding from the jurisdiction of the Board of Parole.

(20) R.S. 15: 574.10. Conviction of a Felony While on Parole

When a person is convicted in this state of a felony committed while on parole or is convicted under the laws of any other state or of the United States or any foreign government or country of an offense committed while on parole and which if committed in this state would be a felony, his parole shall be deemed revoked as of the date of the commission of the felony or such offense under the laws of the other jurisdiction. His parole officer shall inform the sentencing judge of the fact that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment shall be served consecutively to the term of imprisonment for violation of parole unless a concurrent term of imprisonment is expressly directed by the court. An appeal by the defendant on the new conviction or sentence shall not suspend the revocation provisions of this Section, unless the defendant has been admitted to post-conviction bail on the new sentence of imprisonment. In the event of a successful appeal of the new conviction or sentence, the state shall be liable for any loss of income sustained by the defendant due to such revocation of parole.

(21) R.S. 15: 574.11. Finality of board determinations

A. Parole is an administrative device for the rehabilitation of prisoners under supervised freedom from actual restraint, and the granting, conditions, or revocation of parole rest in the discretion of the Board of Parole. No prisoner or parolee shall have a right of appeal from a decision of the board regarding release or deferment of release on parole, the imposition or modification of authorized conditions of parole, the termination or restoration of parole supervision or discharge from parole before the end of the parole period, or the revocation or reconsideration of revocation of parole, except for the denial of a revocation hearing under R.S. 15:574.9.

(22) R.S. 15: 574.11. Venue

B. Venue in any action in which an individual committed to the Department of Public Safety and Corrections contests any action of the board shall be in the parish of East Baton Rouge. Venue in a suit contesting the actions of the board shall be controlled by this Part and R.S. 15:571.15 and not the Code of Criminal Procedure, Title XXXI-A, Post Conviction Relief, or Title IX, Habeas Corpus, regardless of the captioned pleadings stating the contrary.

(23) R.S. 15: 574.11. Jurisdiction and Procedure

C. The district court shall have appellate jurisdiction over pleadings alleging a violation of R.S. 15:574.9. The review shall be conducted by the court without a jury and shall be confined to the revocation record. Within thirty days after service of the petition, or within further time allowed by the court, the Board of Parole shall transmit to the reviewing court the original or a certified copy of the entire revocation record of the proceeding under review. The review shall be limited to the issues presented in the petition for review. The discovery provisions under the Code of Civil Procedure applicable to ordinary suits shall not apply in a suit for judicial review under this Subsection. The court may affirm the revocation decision of the Board of Parole or reverse and remand the case for further revocation proceedings. An aggrieved party may appeal a final judgment of the district court to the appropriate court of appeal.

(24) R.S. 15: 574.11. Peremptive Period; Service of Process

D. Petitions for review that allege a denial of a revocation hearing under the provisions of R.S. 15:574.9 shall be subject to a peremptive period of ninety days after the date of revocation by the Board of Parole. When revocation is based upon the conviction of a new felony while on parole, the ninety-day peremptive period shall commence on the date of final judgment of the new felony. Petitions for review filed after this peremptive period shall be dismissed with prejudice. Service of process of petitions for review shall be made upon the chairman of the Board of Parole or his designee.

(25) R.S. 15: 574.12. Information as to Offenders and Ex-Offenders; Confidentiality

A. The presentence investigation report, the pre-parole report, the clemency report, the information and data gathered by the staffs of the boards of pardons and parole, the prison record, and any other information obtained by the boards or the Department of Public Safety and Corrections, correction services and youth services, in the discharge of their official duties shall be confidential and shall not be subject to public inspection nor be disclosed directly or indirectly to anyone except as provided by this Section.

B. Information may be released upon request without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the Board of Parole, the Board of Pardons, the governor, the sentencing judge, counsel for the juvenile in a delinquency matter, a district attorney or law enforcement agency, the personnel and legal representatives of the Department of Public Safety and Corrections, corrections services and youth services, including student interns, appropriate governmental agencies, or officials when access to such information is imperative for discharge of the responsibilities of the requesting agency, official, or court officer and the information is not reasonably available through any other means, and court officers with court orders specifying the information requested.

C. Fingerprints, photographs and information pertaining to arrests and dispositions of criminal charges may be released to criminal justice agencies without special authorization.

D. The secretary of the Department of Public Safety and Corrections or his designated representative and the deputy secretary of youth services or his designee may approve the reading of confidential information by the following:

- (1) Social service agencies assisting in the treatment of the offender or ex-offender.
- (2) Approved researchers who have guaranteed in writing anonymity of all subjects.

E. The secretary of the Department of Public Safety and Corrections or his designated representative and the deputy secretary of youth services or his designee may approve the selective reading of information to a private citizen or organization aiding in the rehabilitation of an offender or ex-offender or directly involved in the hiring of the offender or ex-offender under the following conditions:

- (1) It appears that the withholding of the information would be to the offender's or ex-offender's disadvantage.
- (2) The requested information is necessary to further the rehabilitation or the likelihood of hiring the offender or ex-offender.
- (3) The requested information is not reasonably available through other means.
- (4) The offender or ex-offender has given his written consent to the release of the information.

F. (1) Whenever records covered by this Section are subpoenaed, the records shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determination in camera. Should the court find:

- (a) That the information is not relevant to the proceedings, or
- (b) That the information was derived from communications which were obviously made in the confidence that they would not be disclosed, or
- (c) That confidentiality is essential to future useful relations between the source and the recorder of the information, the information shall be withheld.

(2) Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241, unless the court determines that the party has been granted pauper status in accordance with law.

G.(1)(a) Notwithstanding the provisions of Subsection A of this Section following an application for pardon or parole, all information pertaining to an individual's misconduct while incarcerated, statistical information, information pertaining to disposition of criminal charges and incarcerations, and information of a general nature including an individual's age, offense, date of conviction, length of sentence, any correspondence by a public official which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, and discharge date shall be released to the general public at any time upon request.

(b) Each piece of correspondence by a public official which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual shall be recorded in a central register by the board which received the correspondence. The register shall contain the name of the individual whose pardon or parole is the subject of the letter, the name of the public official who is the author of the letter, and the date the letter was received by the board.

(2) The provisions of Paragraph (1) shall not apply to any correspondence submitted which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual received before August 15, 1997.

H. The secretary of the Department of Public Safety and Corrections and the deputy secretary of youth services are authorized to establish rules and regulations to provide for the orderly administration of this Section.

I. It shall be a misdemeanor, punishable by a fine of not more than two thousand dollars or imprisonment for not more than one year, or both, for any member of the boards of pardon and parole or their employees to make public any confidential information.